

PERSON TO CONTACT:

CONTACT TELEPHONE NUMBER:

REFER REPLY TO:

JUN - 1 1998

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

Evidence submitted indicates you were incorporated on [REDACTED] as a mutual benefit corporation.

You are a membership organization. The only requirement for membership is that one must also be a member of [REDACTED].

Section 1.05 of your Bylaws states the purpose of the corporation shall be to maintain a social club related to the antique automobile hobby, to supplement the activities of [REDACTED], to provide mutual enjoyment of its members, but under no circumstances may the corporation engage in any activity not permitted under Internal Revenue Code section 501(c)(7). The corporation may not engage in any political campaign activity.

The activity of your organization is an annual car show open to other antique car clubs and the general public.

Income is derived from car shows, fundraising, dues and the general public and expended for national dues, parties and operations.

Section 501(c)(7) of the Internal Revenue Code provides for exemption for clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes, and no part of the net earnings of which inures to the benefit of any private shareholder.

Section 1.501(c)(7)-1 of the Income Tax Regulations provides that, in general, this exemption extends to social and recreational clubs which are supported solely by membership fees and assessments. A club which engages in business, such as making its social and recreational facilities available to the general public or selling products and merchandise is not organized and operated exclusively for pleasure and recreational purposes.

Code	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Surname	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Date	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Form 1537-A (Rev. 8-80) Correspondence Approval and Clearance

Department of the Treasury Internal Revenue Service

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Section 1.501(c)(7) of the Income Tax Regulations provides as follows:

- a). The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise-entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.
- b). A club which engages in business, such as making its social and recreational facilities available to the general public - is not organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, and is not exempt under section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes.

Public Law 94-568 as explained in Senate Report No. 94-1318, published in Cumulative Bulletin 1976-2, page 597, provides that a club, exempt from taxation and described in section 501(c)(7), is permitted to receive up to 35 percent of its gross receipts from a combination of investment income and receipts from nonmember use of its facilities or services, so long as the latter does not represent more than 15 percent of the total receipts. It is further stated that if an organization exceeds these limits, all of the facts and circumstances must be considered in determining whether the organization qualifies for exempt status.

Revenue Ruling 58-588 published in Cumulative Bulletin 1958-2, on page 265, states an organization formed by several individuals to operate a health, recreational, and social club but whose predominant activity is selling of services for profit to an unlimited number of so-called "members", who have no voice in the management of the club and whose only rights are the use of the club's facilities upon payment of specified fees, is not a tax-exempt social club within the meaning of section 501(c)(7) of the Internal Revenue Code.

Revenue Ruling 65-63, published in Cumulative Bulletin 1965-1, on page 240, holds that a nonprofit organization which, in conducting sports car events for the pleasure and recreation of its members, permits the general public to attend such events for a fee on a recurring basis and solicits patronage by advertising, does not qualify for exemption as a club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes under section 501(c)(7) of the Internal Revenue Code.

[REDACTED]

In this case, it was held that the solicitation of public patronage of its activities was prima facie evidence that the club was engaged in business and was not being operated exclusively for pleasure, recreation or social purposes. The income derived from public patronage inured to the benefit of the members. The club, therefore, did not qualify for exemption.

Further clarification of your activities revealed that you have consistently exceeded the non-member income limitation. Your non-member income was [REDACTED] for [REDACTED]; [REDACTED] for [REDACTED] and [REDACTED] for [REDACTED]. In addition, your projected non member income is [REDACTED] and [REDACTED] for [REDACTED] and [REDACTED] respectively.

The fact that your organization has excessive non-member income is reinforced by the following statements:

There is a fee charged to enter a car in the show. Anyone may enter a car. A copy of the advertisement related to the show is attached. The public is welcome to enter cars in the show.

Based upon the facts submitted we have determined that you do not qualify for exemption under section 501(c)(7).

You are similar to the organizations described in Revenue Rulings 58-588 and 65-63. The income generated from other AACA members is non member income because those individuals are not actively involved in the management or control of your organization.

Although, you do not advertise to increase your membership your club permits public participation in your activities. Your advertising for public participation causes your non-member income to exceed 15 percent limitation permitted under Public Law 94-568. In addition, financial information submitted does not demonstrate that income derived from the public was distributed to charity or used to pay the public's share of expenses of the show, but does indicate that profits from the show were added to the club's treasury and used or held to be used for the general operating expenses of the club.

Therefore, we have determined that your non member income from members of clubs of like nature, interest income and the general public inures to the benefit of your members and precludes you from exemption.



Hence, you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(7) of the Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,



Paul M. Harrington  
District Director  
Southeast Region

Enclosure: Publication 892